

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6127
Obama for America and Martin Nesbitt,)
in his official capacity as Treasurer;)
Barack Obama; Obama Victory Fund)
and Andrew Tobias, in his official)
capacity as Treasurer; Democratic)
National Committee and Andrew)
Tobias, in his official capacity as)
Treasurer; VIDA Fitness; David von)
Storch; Saul Ewing, LLP)

CERTIFICATION

I, Darlene Harris, recording secretary for the Federal Election Commission executive session on November 17, 2009, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 6127:

1. Dismiss the allegation that Obama for America and Martin Nesbitt, in his official capacity as Treasurer, violated 2 U.S.C. § 439a(b) and send a cautionary letter.
2. Dismiss the allegation that Barack Obama violated 2 U.S.C. § 439a(b) and send a cautionary letter.
3. Find reason to believe that VIDA Fitness, Urban Salons, Inc., d/b/a Bang Salon Spa, and David von Storch violated 2 U.S.C. § 441b(a) and 11 CFR § 114.2(f).
4. Dismiss the allegation that Obama Victory Fund, Obama for America, and the Democratic National Committee violated 2 U.S.C. § 441b(a).
5. Find no reason to believe that Obama for America and Martin Nesbitt, in his official capacity as Treasurer, violated 2 U.S.C. § 434(b) and 11 CFR § 104.3.
6. Find no reason to believe that Obama for America and Martin Nesbitt, in his official capacity as Treasurer, violated 2 U.S.C. § 441a(f).

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7. Find no reason to believe that Saul Ewing, LLP violated 2 U.S.C. § 441a(a)(1)(A) and 11 CFR § 110.1(b).

8.

9.

10. Approve the factual and legal analyses, as recommended in the First General Counsel's Report dated June 18, 2009, subject to the revisions previously circulated.

11. Approve the appropriate letters.

12. Close the file as to Obama for America and Martin Nesbitt, in his official capacity as Treasurer; Barack Obama; Obama Victory Fund and Andrew Tobias, in his official capacity as Treasurer; Democratic National Committee and Andrew Tobias, in his official capacity as Treasurer; and Saul Ewing, LLP.

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Walther voted

affirmatively for the decision. Commissioner Weintraub recused herself with

respect to MUR 6127 and did not vote.

Attest:

November 19, 2009
Date

Darlene Harris
Darlene Harris
Deputy Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
VIDA Fitness; Urban Salons, Inc. d/b/a) MUR 6127
Bang Salon Spa; David von Storch)

CERTIFICATION

I, Darlene Harris, Deputy Secretary of the Federal Election Commission, do hereby certify that on January 14, 2010, the Commission decided by a vote of 5-0 to take the following actions in MUR 6127:

1. Accept the conciliation agreement, as recommended in the General Counsel's Memorandum dated December 29, 2009.
2. Approve the appropriate letters.
3. Close the file.

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Walther voted affirmatively for the decision. Commissioner Weintraub recused herself with respect to this matter and did not vote.

Attest:

January 14, 2010
Date

Darlene Harris
Darlene Harris
Deputy Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Katharine R. Boyce, Esq.
Patton Boggs LLP
2550 M Street, N.W.
Washington, D.C. 20037

JAN 21 2010

RE: MUR 6127
VIDA Fitness
Urban Salons Inc., d/b/a
Bang Salon Spa
David von Storch

Dear Ms. Boyce:

On January 14, 2010, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 114.2(f). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Jin Lee
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
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COMMISSION

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OFFICE OF GENERAL
COUNSEL

In the Matter of)

MUR 6127

VIDA Fitness)

Urban Salons, Inc. d/b/a Bang Salon Spa)

David von Storch)

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission ("Commission"). See 2 U.S.C. § 437g(a)(1). The Commission found reason to believe that VIDA Fitness, Urban Salons, Inc., d/b/a Bang Salon Spa, and David von Storch (collectively "Respondents") violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f), provisions of the Federal Election Campaign Act, as amended (the "Act").

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

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Applicable Law

1. Corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a).

2. Corporations (including officers, directors or other representatives acting as agents for the corporation) also are prohibited from facilitating the making of contributions. 11 C.F.R. § 114.2(f)(1).

3. Corporate facilitation includes "using a corporate or labor organization list of customers, clients, vendors or others who are not in the restricted class to solicit contributions or distribute invitations to the fundraiser, unless the corporation or labor organization receives advance payment for the fair market value of the list." 11 C.F.R. § 114.2(f)(2)(i)(D).

4. Corporate facilitation includes "providing catering or other food services operated or obtained by the corporation or labor organization, unless the corporation or labor organization receives advance payment for the fair market value of the services." 11 C.F.R. § 114.2(f)(2)(i)(E).

5. Corporations are permitted to solicit contributions to be sent directly to candidates, but those solicitations are limited solely to its stockholders and executive or administrative personnel, and their families, which constitute a corporation's restricted class. See 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(j) and 114.2(f).

Factual Background

6. VIDA Fitness ("VIDA"), a Subchapter S corporation, is a fitness club with three locations in Washington, D.C.

7. Urban Salons, Inc., d/b/a Bang Salon Spa ("Bang") is a salon and spa with three locations in Washington, D.C.

8. David von Storch is VIDA's President and sole shareholder and is Bang's Chief Executive Officer and Principal Owner.

9. Obama Victory Fund ("OVF") is the joint fundraising committee comprised of Obama for America, which is the principal campaign committee for President Barack Obama, and the Democratic National Committee.

10. In or about mid-September 2008, Mr. von Storch and Thomas Petrillo, a representative of OVF, agreed to hold a fundraising event on September 26, 2008 ("OVF Event") at VIDA's newest location on 1515 15th Street, N.W., Washington, D.C. This location had not yet opened to the public.

11. Prior to September 19, 2008, Mr. Petrillo emailed Mr. von Storch an invitation to the OVF Event that was prepared by OVF.

12. Without the knowledge or approval of OVF, including Mr. Petrillo or any agents thereof, Mr. von Storch revised the invitation and, on September 19, 2008, electronically sent the invitation to approximately 20,000 individuals on a list of customers and friends of VIDA and Bang ("VIDA/Bang List") that was prepared by Mr. von Storch.

13. Neither VIDA nor Bang received any payment for the use of the VIDA/Bang List from OVF prior to September 19, 2008. Mr. von Storch estimated the value of the VIDA/Bang List at \$3,000.

14. On September 26, 2008, OVF held the OVF Event at VIDA's location on 15th Street in Washington, D.C., described in paragraph 10.

15. Although VIDA provided beverages, including a keg of beer and sodas, which were approximately worth \$225, VIDA failed to invoice OVF for these beverages until November 26, 2008, and OVF paid the invoice on December 4, 2008.

16. On December 4, 2008, Mr. von Storch made a personal contribution of \$3,000 to OVF, the estimated value of the VIDA/Bang List.

V. Respondents committed the following violations of the Act:

1. Respondents facilitated the making of contributions in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f) by failing to obtain advance payment for the VIDA/Bang List to distribute an invitation to the OVF Event and by failing to obtain advance payment for the beverages provided by VIDA at the OVF Event.

2. Respondents solicited contributions from individuals outside of VIDA's and Bang's restricted class in violation of 2 U.S.C. § 441b(b).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of five thousand and five hundred dollars (\$5,500), pursuant to 2 U.S.C. § 437g(a)(5)(B).

VII. Respondents will cease and desist from violating 2 U.S.C. § 441b and 11 C.F.R. § 114.2(f).

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

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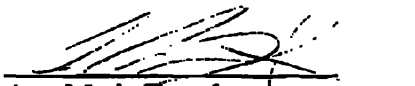
has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

X. Respondents shall have no more than thirty days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan, General Counsel

BY:  _____
Ann Marie Terzaken
Associate General Counsel
Date 1/20/10

FOR THE RESPONDENTS:

 _____
VIDA Fitness
Date 12-11-09

 _____
Urban Salons, Inc., d/b/a
Bang Salon Spa
Date 12-11-09

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David von Storch
Date 12-11-09

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